

**Minutes of Meeting  
BOARD FOR CONTRACTORS  
INFORMAL FACT-FINDING CONFERENCES  
December 9, 2003 (9:00 a.m.)**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Dorothy L. Wood, Board member, presided. No other Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case  
Lic=Licensing Application  
RF=Recovery Fund Claim  
Trades=Tradesmen Application

C=Complainant/Claimant  
A=Applicant  
R=Respondent/Regulant  
W=Witness  
Atty = Attorney

Participants

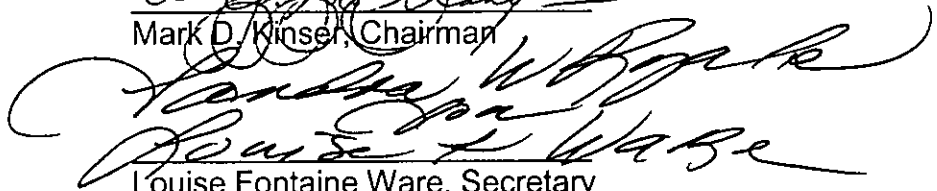
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|---|---|
| 1. Rob Bellamy Sr.<br>t/a Seaside Pools<br>File Number 2003-00395 (Disc)                | Steve Carlson - C   |
| 2. G & L Mechanical and Services Inc.<br>File Number 2003-01704 (Disc)                  | None  |
| 3. Kevin L. Medley<br>t/a Medley Builders<br>File Number 2003-01693 (Disc)              | None  |
| 4. Thomas B. Henderson<br>t/a Affordable Modular Homes<br>File Number 2002-03227 (Disc) | Henderson - R   |
| 5. Hicks Electric Inc.<br>File Number 2003-02044 (Disc)                                 | Craig Hicks - R<br>Stacey Hicks - R<br>Keith Prior appeared on<br>behalf of Claudia Prior - C |

- |   |  |
|---|--|
| 6. Gregory Ferguson<br>t/a More 4 Less Home Improvements & Maintenance<br>File Number 2002-02054 (Disc) | Ferguson -- R<br>Cindy Ferguson - W<br>Susan Allen -- C by telephone |
| 7. Stacy N. Stanley<br>t/a Colonial Paving Contractors<br>File Number 2004-00064 (Disc)                 | None   |
| 8. Stacy N. Stanley<br>t/a Colonial Paving Contractors<br>File Number 2004-00892 (Disc)                 | None   |
| 9. Stacy N. Stanley<br>t/a Colonial Paving Contractors<br>File Number 2004-00734 (Disc)                 | Lorenzo Dyer - C   |
| 10. Stacy N. Stanley<br>t/a Colonial Paving Contractors<br>File Number 2004-01200 (Disc)                | Stanley Elliott - C  |
| 11. Luci Cochran and<br>Brett Mowe, t/a Peninsula Remodelers<br>File Number 2003-01651 (RF)             | Cochran -- C   |

The meeting adjourned at 3:15 p.m.

BOARD FOR CONTRACTORS

  
Mark D. Kinser, Chairman

  
Louise Fontaine Ware, Secretary

COPY TESTE:

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Custodian of Records

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: ROB BELLAMY, SR., T/A SEASIDE POOLS  
LICENSE NUMBER 2705-062934

FILE NUMBER: 2003-00395

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Rob Bellamy, Sr., t/a Seaside Pools on October 2, 2003, and by letter dated November 25, 2003, sending the Amended Informal Fact-Finding Conference Memorandum. The following individuals participated at the conference: Steve Carlson, Complainant; Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member.

No one appeared on behalf of Rob Bellamy Sr., t/a Seaside Pools.

### **Summation of Facts**

1. On August 12, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received information from the City of Virginia Beach, Division of Consumer Affairs, forwarding a written complaint by Steve Carlson (Carlson) regarding a contract entered into with Robin Michael Bellamy (Bellamy), t/a Seaside Pools.
2. On or about June 26, 2001, Carlson entered into a contract with Bellamy, in the amount of \$20,500.00, for the installation of an in-ground pool at 1441 Sir Richard Road, Virginia Beach, Virginia 23455.
3. On or about July 14, 2001, Carlson paid Bellamy \$10,250.00 by check. On or about September 25, 2001, Bellamy commenced the excavation for the pool. On or about October 3, 2001, Bellamy completed the pool excavation.
4. On or about October 3, 2001, Carlson paid Bellamy \$3,075.00 by check. On or about October 17, 2001, Carlson paid Bellamy \$3,075.00 by check.
5. By October 17, 2001, Bellamy completed the footers, pool walls, pool liner, and electrical and pool pump/PVC lines. As of November 2001, Bellamy failed to return to complete the work contracted for, including: placement of concrete around pool, only mud exists, no Polaris 280 Pool Cleaner with head, no eight foot diving board with flute deck stand, no 3 tread ladder, no set of hand rails for the steps, no Merlin Solid Safety Cover, no start-up chemicals, and no maintenance kit.
6. Carlson made several unsuccessful attempts to contact Bellamy by telephone. On or about June 26, 2002, Carlson sent Bellamy a letter requesting Bellamy complete the work contracted for. Carlson requested a response from Bellamy by July 6, 2002.
7. On September 25, 2001, Bellamy obtained building permit number 200112031B0 for the installation of an in-ground pool at 1441 Sir Richard Road, Virginia Beach, Virginia 23455.
8. Between September 25, 2001, and November 25, 2002, Bellamy failed to request a final inspection on the pool in a violation of Section 114.4 of the Virginia Uniform Statewide Building Code.
9. As of November 25, 2002, Bellamy failed to complete the work.

10. On or about November 25, 2002, Carlson requested building permit number 200112031B0 be voided because Bellamy abandoned the job. On November 25, 2002, building permit number 20112031B0 was voided.

11. On or about August 19, 2002, Investigator Wayne J. Ozmore, Jr., the Board's agent, made a written request to Bellamy at the address of record of 116 74<sup>th</sup> Street, Virginia Beach, Virginia 23451, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by September 4, 2002. As of May 23, 2003, Bellamy refused or failed to respond to the Board's agent's request.

12. During the IFF, Carlson stated that he hired Perfection Pools to complete the work not done under the contract with Bellamy.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Bellamy's failure to complete the work contracted for is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(12). Therefore, I recommend a monetary penalty of \$2,000.00 be imposed, along with revocation of Bellamy's license.

Count 2: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Bellamy's failure to request a final inspection on the pool is misconduct in the practice of contracting in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$2,000.00 be imposed, along with revocation of Bellamy's license.

Count 3: 18 VAC 50-22-260(B)(13) Effective September 1, 2001)

Bellamy's failure to respond in writing to a request made by Investigator Wayne J. Ozmore, Jr., the Board's agent, is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of Bellamy's license.

By:

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Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

**FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-062934 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
BOARD FOR CONTRACTORS**

**RE: G & L MECHANICAL AND SERVICES, INC.  
LICENSE NUMBER 2705-025935**

**FILE NUMBER: 2003-01704**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to G & L Mechanical and Services, Inc, c/o Daniel E. Long, President on October 2, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member.

No one appeared on behalf of G & L Mechanical and Services, Inc.

### **Summation of Facts**

1. On or about December 6, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Kenneth J. Aspinall (Aspinall) of the Church of the Epiphany regarding a contract entered into with G & L Mechanical and Services Inc. (G & L).
2. On or about March 10, 2000, the Church of the Epiphany entered into a contract with G & L, in the amount of \$93,470.00, to upgrade and improve the HVAC system for the church at 11000 Smoketree Drive, Richmond, Virginia.
3. On or about April 14, 2000, the Church of the Epiphany entered into a second contract with G & L, in the amount of \$14,185.00, to install an Automatic Zone Control System for the church at 1100 Smoketree Drive, Richmond, Virginia.
4. The contracts used by G & L in the transaction failed to contain the minimum provisions required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when the work is to begin and the estimated completion date, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, and (h) the contractor's expiration date, class of license/certificate, and classification or specialty services.
5. On or about February 5, 2003, the records for the State Corporation Commission revealed that G & L's corporation status was terminated on July 1, 2002.
6. G & L failed to apply for a new license within 30 days of the change in the business entity.
7. In a letter dated February 22, 2001, Keith M. Grahl, Eastern Region Service Manager for Rheem, stated that Tom Fowler, District Technical Representative for Rheem, performed an inspection at the Epiphany Catholic Church for undesirable operation of three Rheem condensing units that had been matched to a Carrier air handler. "Mr. Fowler's investigation revealed that the interconnecting refrigerant lines were buried underground, and that the liquid line diameter was 7/8", instead of the 3/4" recommended for this application. The refrigerant lines need to be above the surface of the earth to avoid liquid migration and compressor slugging. The liquid line should be changed to 3/4".

8. G & L failed to perform the installation per the manufacturer's recommendation.
9. On or about November 11, 2001, in the Circuit Court of Chesterfield County, the Church of the Epiphany was awarded a \$20,000.00 judgment against G & L. G & L failed to satisfy the judgment.
10. On or about December 23, 2002, Investigator Becky C. Angelilli, the Board's Agent, made a written request to G & L at the address of record of 1123 Kingsport Lane, Richmond, Virginia 23225, requesting a written response and supporting documentation to the complaint filed with the Board. The Board's Agent requested the documentation be received by January 9, 2003.
11. On or about December 30, 2002, the Board's Agent spoke with Lester Long of G & L, who told the Board's Agent that the company was no longer in business, and that he would send a written response.
12. As of March 5, 2003, G & L failed to provide a written response to the Board's Agent's requests.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)  
(2 Violations)

G & L's failure to use contracts (2) containing the minimum provisions required by the Board, is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend a monetary penalty of \$500.00 be imposed per violation.

Count 2: 18 VAC 50-22-210(3) (Effective September 1, 2001)

G & L's failure to apply for a new license within 30 days of the change in the business entity is in violation of the Board's 2001 Regulation 18 VAC 50-22-210(3). Therefore I recommend a monetary penalty of \$300.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)



G & L's failure to install the equipment per the manufacturer's recommendation is misconduct in the practice of contracting, and is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001)

G & L's failure to satisfy a judgment awarded to the Church of the Epiphany by the Circuit Court for the County of Chesterfield is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed.

Count 5: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

G & L's failure to respond in writing to a request made by Becky C. Angelilli, the Board's agent, to furnish a response and supporting documents to the claim filed with the Board, is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend a monetary penalty of \$500.00 be imposed.

By:

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Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

**FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-025935 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
BOARD FOR CONTRACTORS**

**RE: KEVIN L. MEDLEY, T/A MEDLEY BUILDERS  
LICENSE NUMBER 2705-047197**

**FILE NUMBER: 2003-01693**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Kevin L. Medley, t/a Medley Builders on October 3, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member.

No one appeared on behalf of Kevin L. Medley, t/a Medley Builders.

**Summation of Facts**

1. On or about December 18, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Harry Switzer (Switzer) regarding a verbal contract entered into with Kevin Medley (Medley), t/a Medley Builders.
2. On or about March 22, 2002, Switzer entered into a verbal contract with Medley, in the amount of \$13,200.00, to build an eight-by-twelve room addition and bathroom at 111 Wright Road, Covington, Virginia 24426.

3. On or about March 22, 2002, Medley commenced work on the project.

Medley failed to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed, signed by all parties, prior to commencement of work.

4. On or about December 18, 2002, a review of the licensing records of the Board for Contractors revealed Kevin L. Medley, t/a Medley Builders, was issued Class C Contractor's license number 2705047197 on November 25, 1998, with the building (BLD) classification.

5. Medley failed to obtain a Class B license to perform work in excess of the \$7,500.00 limit of a Class C license.

6. On or about April 18, 2003, Gary Hepler (Hepler), District Director of Planning for Allegheny County, told Investigator Dale C. Amos, the Board's agent, that Medley failed to obtain building, electrical, and plumbing permits for the construction of the addition at 111 Wright Road, in violation of Section 109.1 of the Virginia Uniform Statewide Building Code.

7. On or about April 21, 2003, in the General District Court of Allegheny County, Switzer was awarded a \$7,485.17 judgment against Medley. The judgment also cited the court found Medley "guilty of improper conduct in that he violated the building code and was grossly negligent."

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(8) (Effective September 1, 2001)

Medley's failure to use a legible written contract clearly specifying the terms and conditions of the work to be performed, signed by all parties, prior to commencement of the work is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend a monetary penalty of \$500.00 be imposed, along with revocation of Medley's license.

Count 2: 18 VAC 50-22-260(B)(27) (Effective September 1, 2001)

Medley's action of contracting in a class of license for which he is not licensed is in violation of the Board's 2001 Regulation 18 VAC 50-22-270(B)(7). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed, along with revocation of Medley's license.

Count 3: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Medley's failure to obtain building, electrical and plumbing permits is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed, along with revocation of Medley's license.

Count 4: 18 VAC 50-22-260(B)(28) (Effective January 1, 2003)

Medley's failure to satisfy a judgment awarded to Switzer on or about April 21, 2003, in the amount of \$7,485.17 is in violation of the Board's 2003 Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend a monetary penalty of \$2,000.00 be imposed, along with revocation of Medley's license.

Count 5: 18 VAC 50-22-260(B)(7) (Effective January 1, 2003)

Medley, having been found guilty of improper conduct by the General District Court of Allegheny County for violating the building code, is in violation of the Board's 2003 Regulation 18 VAC 50-22-260(B)(7). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of Medley's license.

By:

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Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

#### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-047197 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
BOARD FOR CONTRACTORS**

**RE: THOMAS B. HENDERSON  
T/A HENDERSON BUILDERS  
(FORMERLY DOING BUSINESS AS AFFORDABLE MODULAR HOMES)  
LICENSE NUMBER 2705 023319**

**FILE NUMBER: 2002-03227**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Thomas B. Henderson, t/a Henderson Builders (Henderson) on October 3, 2003. The following individuals participated at the conference: Thomas B. Henderson, Respondent; Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member.

**Background**

On or about May 29, 2001, Michael T. Cole and W. Jean Cole (the Coles) entered into a contract with Thomas B. Henderson (Henderson), t/a Affordable Modular Homes, in the amount of \$120,000.00, to erect a modular house at State Road 640 Watts Passage Road, Lot 3A, Charlottesville, Virginia.

**Summation of Facts**

1. In a letter dated May 20, 2002, the Coles notified Henderson of the following defects: ceiling beam seam in the master suite closet not well sanded, gouge in the wall by the light switch in the master suite closet, clumps of caulking, drywall mud, paint between the small bedroom door trim and wall, electrical control panel basement breaker constantly trips when outlets are used, carpet separation between the living and dining room areas, heating problems, power fluctuation, leakage in the kitchen, and unstable stairways.

2. On or about June 14, 2002, Jay Schlothauer (Schlothauer), Albemarle County Building Official, inspected 5372 Watts Passage. During the inspection, Schlothauer noted approximately 13 code violations from 1995 CABO One and Two Family Dwelling Code, including:

- stairs at the deck and interior stairs were not attached and supported
- deck front joist are not installed with correct fastening and bearing
- cracks have appeared in the basement wall
- exterior unit of the heat pump is not level
- furnace is not delivering heat to every room
- threaded connection is stripped at the sink drain
- sewer vent pipe does not terminate high enough above the roof surface
- overflow drains at the tubs do not include traps
- electrical circuits to the kitchen and small appliances are not properly dedicated
- sections of the home do not appear to be bolted together adequately
- spacing of the support columns in the basement do not appear to conform to the manufacturer's requirement, and
- floor surface in the living room is irregular where the two sections of the home attach.

3. On or about July 9, 2002, Schlothauer issued a Notice of Violation to Henderson for the violations noted during the inspection.

4. On or about July 9, 2002, Henderson met with the Coles to discuss the items in the May 20, 2002 letter. On or about July 11, 2002, Henderson told Investigator Shelby Smith-Hill, the Board's Agent, that he will address and repair items # 1, 2, 4, 5, 6, 9, 11, 12, 13 in addition to the items in the Notice of Violation issued by the Building Officials office.

5. On or about July 26, 2002, Schlothauer told the Board's Agent that all items, with the exception of the soil issue, per the Notice of Violation, must be completed by August 25, 2002, and that the repair process was underway at that time.

6. In a letter dated August 23, 2002, Henderson told the Board's Agent that he failed to comply with his promise to complete all warranty items in the Notice of Violation dated July 9, 2002 and in the letter dated May 20, 2002.

7. Henderson failed to honor the promise to complete all items of concern and the Coles were awarded judgment.

8. Henderson failed to correct the warranty items after promising to do so.

9. During the IFF, Henderson stated that he had not completed the work until he received notice from the investigator.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Henderson's failure to correct the warranty items after promising to do so is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$250.00 be imposed. In addition, I recommend Henderson successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(25) (Effective September 1, 2001)

Henderson's failure to abate the violations as cited by Jay Schlothauer, Albemarle County Building Official, is a violation of Board Regulation 18 VAC 50-22-260(B)(25). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

By:

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Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 0205 023319 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
BOARD FOR CONTRACTORS**

**RE: HICKS ELECTRIC, INC.**

**LICENSE NUMBER 2705 057853**

**FILE NUMBER: 2003-02044**

### **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Hicks Electric, Inc. (Hicks) on October 6, 2003. The following individuals participated at the conference: Craig Hicks, President, and Stacey Hicks of Hicks Electric, Inc., Respondents; Keith Prior, son, appeared on behalf of Claudia Prior, Complainant; Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member.

### **Background**

On January 29, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Claudia Prior (Prior) regarding a contract entered into with Hicks Electric Inc. (Hicks).

Prior originally entered into a contract with GT Mechanical to install a new heat system. Greg Smith (Smith) of GT Mechanical told Prior that the electrical service needed to be changed to install the new heat system. Prior lived out of state and requested Smith arrange for the electrical service to be changed.

On December 10, 2001, Smith of GT Mechanical, on behalf of Prior, entered into a contract with Hicks, in the amount of \$900.00, to change an electrical panel from 150 amp fuses to 150 amp breakers and wire the new heat pump system at 3500 McGuire Drive, Richmond, Virginia.

### **Summation of Facts**

1. On or about December 11, 2001, Hicks commenced the work on the project. On or about December 11, 2001, Hicks installed a 100 amp main service breaker instead of a 150 amp main service breaker as the contract stated.
2. On or about January 27, 2003, Hicks went back to Prior's property and installed the 150 amp main service breaker.



3. On or about January 27, 2003, Prior hired O'Hara's Electric Inc. (O'Hara's) to go to the property and check behind the work that had been performed by Hicks. Kevin O'Hara of O'Hara's told the Board's agent that when he arrived he observed that there was a 100 Amp feed going to the meter base. O'Hara also noticed that the panel board was a 125 Amp Generator/Transfer panel. Inside the panel was a Murray Type MD-A 150 Amp main breaker. This panel is not listed for use of a Type MD-A breaker. O'Hara further found that " the service from Virginia Power was 100 Amps and the ground wire for the service was a number 8 copper clad conductor which is rated for a 100 Amp service.

4. On or about February 11, 2003, P. J. Murphy, Chief Electrical Code Administrator with the City of Richmond, advised Investigator Becky C. Angelilli, the Board's agent, that Hicks failed to obtain an electrical permit prior to the commencement of work, in violation of Section 109.1 of the Virginia Uniform Statewide Building Code.

5. The contract used by Hicks in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when the work is to begin and the estimated completion date, (e) a statement of assurance regarding local requirements for building permits, inspections and zoning, and (h) the contractor's expiration date, classification or specialty services.

6. During the IFF, Hicks admitted they did not apply for the permit or call for an inspection when the work was completed. Stacey Hicks stated their contract has been updated to include all required provisions.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(5) (Effective September 1, 2001)

Hicks actions of installing a 100 amp main service breaker instead of a 150 amp main service breaker as the contract stated is negligence and/or incompetence in the practice of contracting in violation of Board Regulation 18 VAC 50-22-260(B)(5). Therefore, I recommend a monetary penalty of \$250.00 be imposed. In addition, I recommend a member of responsible management successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Hicks failure to obtain an electrical permit prior to the commencement of work, in violation of Section 109.1 of the Virginia Uniform Statewide Building Code is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$500.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Hicks failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$200.00 be imposed.

By:

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Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

**FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 057853 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

**BOARD FOR CONTRACTORS**

**RE: GREGORY N. FERGUSON  
T/A MORE 4 LESS HOME IMPROVEMENTS & MAINTENANCE  
LICENSE NUMBER 2705 064761**

**FILE NUMBER: 2002-02054**

### **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Gregory N. Ferguson, t/a More 4 Less Home Improvements & Maintenance (Ferguson) on July 18, 2003. The following individuals participated at the conference: Gregory N. Ferguson, Respondent; Cindy Ferguson, Witness; Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member. Additionally, Susan Allen, Complainant, participated by telephone.

### **Background**

On or about October 19, 2001, Susan Allen entered into a contract with Gregory N. Ferguson in the amount of \$2,250.00 for the construction of a deck and steps at Allen's residence located at 1306 Fenwick Drive, Lynchburg, Virginia.

### **Summation of Facts**

1. The contract used by Ferguson in this transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (c) a list of specific materials and work to be performed, (f) disclosure of the cancellation rights of the parties, and (h) the contractor's class and specialty.
2. On or about November 10, 2001, Ferguson left the job and failed to return despite repeated phone calls from Allen requesting Ferguson return to make repairs to the deck and steps. Allen paid Ferguson the entire price of the contract by checks and cash.
3. During the IFF, Ferguson testified that when he left the job, Allen stated that she was satisfied with the work and she paid him in full.
4. On December 11, 2001, Allen sent a certified letter to Ferguson requesting Ferguson return and make repairs or refund money received for work not performed. Allen stated that Ferguson failed to use treated wood, space the flooring in an even manner, level the deck, install latticework with nails instead of wire and use galvanized nails.
5. On December 19, 2001, Harold Hienkle (Hienkle), Building Official for the City of Lynchburg, Virginia, sent a letter to Ferguson outlining eleven (11) building code violations with the deck constructed for Allen. Hienkle cited the following violations:
  - footers were installed without inspection, in violation of Section 113.1.5 and Section 113.2 of the Virginia Uniform Statewide Building Code;
  - handrailing and steps did not meet 34" heights requirement, in violation of Section 315.3 of the 1995 CABO Code;

- banisters did not meet minimum requirements of 4" separations, in violation of Section 301.1 of the 1995 CABO Code;
- handrails did not meet structural load requirements, in violation of Section 301.1 of the 1995 CABO Code;
- deck bands exceeded the span for the size of lumber used, in violation of Section 301.1 of the 1995 CABO Code;
- untreated wood used for guardrails, in violation of Sections 322.1.2 and 322.2 of the 1995 CABO Code;
- lag bolts installed without washers, in violation of Section 301.1 of the 1995 CABO Code;
- 3 x 3 foot landing required at bottom of stairs, in violation of Section 312 of the 1995 CABO Code; and
- skirt has pulled away from wall attachment, in violation of Section 301.1 of the 1995 CABO Code.

6. Hienkle mailed this letter to Ferguson requesting that he return to make the necessary repairs by January 8, 2002. As of April 5, 2002, Ferguson failed to make the repairs.

7. During the IFF, Ferguson testified that he was willing to complete repairs, but Allen would not let him back on the property.

8. On or about February 6, 2002, in the Lynchburg General District Court, Allen was awarded a \$2,341.62 judgment against Ferguson. On November 18, 2002, the Ferguson's satisfied the judgment in full.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Ferguson's failure to make use of a legible written contract that contains all the provisions specified is a violation Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$50.00 be imposed. In addition, I recommend that Ferguson successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001) (Ferguson's failure to return to complete the work he contracted to perform)

I recommend that Count 2 be closed with a finding of no violation.

Count 3: 18 VAC 50-22-260(B)(25) (Effective September 1, 2001)

Ferguson's failure to abate violations of the Virginia Uniform Statewide Building Code is a violation of Board Regulation 18 VAC 50-22-260(B)(25). Therefore, I recommend a monetary penalty of \$750.00 be imposed. In addition, I recommend that Ferguson successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 4: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001) (Ferguson's failure to satisfy the judgment awarded to Allen)

I recommend that Count 4 be closed with a finding of no violation.

By:

\_\_\_\_\_  
Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER.*

*FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 064761 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

**BOARD FOR CONTRACTORS**

**RE: STACY N. STANLEY  
T/A COLONIAL PAVING CONTRACTORS  
LICENSE NUMBER 2705 065559**

**FILE NUMBER: 2004-00064**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Stacy N. Stanley, t/a Colonial Paving Contractors (Stanley) on October 10, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member. Neither Stanley, nor anyone on her behalf, appeared at the IFF.

**Background**

On June 27, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Gregory R. Mineo (Mineo) regarding a contract entered into with Stacy N. Stanley (Stanley), t/a Colonial Paving Contractors.

On August 10, 2002, Mineo entered into a contract with Stanley, in the amount of \$5,000.00, to regrade and pave a driveway with an additional 18' x 21' section at 13306 Chesdin Landing Drive, Chesterfield, Virginia.

On July 3, 2003, a review of the licensing records of the Board for Contractors revealed that Stanley was issued Class C Contractor's license number 2705065559 on October 25, 2001, as a sole proprietorship. The records further revealed Christian R. Stanley was the qualified individual of license number 2705065559.

### **Summation of Facts**

1. The contract used by Stanley in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsection (h) class of license, and classification or specialty services.
2. The contract specified "Any bad or broken areas will be patched free of charge for one year."
3. On August 15, 2003, Stanley completed the driveway. In about March 2003, Mineo discovered numerous areas in the paved driveway where it was caving in and severely cracking. Mineo called Stanley and left several messages; however, Stanley failed to respond.
4. As of July 25, 2003, Stanley failed to repair the sinking spots and cracks in the driveway.
5. On June 30, 2003, Investigator E. Nathan Matthews, the Board's Agent, made a written request, via certified mail, to Stanley at the address of record of 6936 Holly Bark Drive, Midlothian, Virginia 23112, requesting a written response and supporting documentation to the complaint filed with the Board. The certified letter was returned to the Board's agent by the United States Postal Service (USPS) and was marked "moved, left no address."
6. On July 23, 2003, the Board's Agent made a written request to Stanley at the address of record of 6936 Holly Bark Drive, Midlothian, Virginia 23112, requesting a written response and supporting documentation to the complaint filed with the Board. On July 30, 2003, the letter was returned to the Board's agent by USPS and was marked "moved left no address unable to forward."
7. On September 29, 2003, a review of the licensing records of the Board for Contractors revealed the license address of record for Stanley was 6936 Holly Bark Dr, Midlothian, Virginia 23112. The records further revealed there was no change of address reported to the Board. Stanley failed to notify the Board, in writing, within thirty (30) days of a change of address.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Stanley's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(30) (Effective September 1, 2001)

Stanley's failure to honor the terms and conditions of a warranty by failing to repair the sinking spots and cracks in the driveway is a violation of Board Regulation 18 VAC 50-22-260(B)(30). Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 3: 18 VAC 50-22-230(B) (Effective January 1, 2003)

Stanley's failure to notify the Board, in writing, within thirty (30) days of a change of address is a violation of Board Regulation 18 VAC 50-22-230(B). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

By:

\_\_\_\_\_

Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

#### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 065559 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA**



**DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

**BOARD FOR CONTRACTORS**

**RE: STACY N. STANLEY  
T/A COLONIAL PAVING CONTRACTORS  
LICENSE NUMBER 2705 065559**

**FILE NUMBER: 2004-00892**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Stacy N. Stanley, t/a Colonial Paving Contractors (Stanley) on October 10, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member. Neither Stanley, nor anyone on her behalf, appeared at the IFF.

**Background**

On August 20, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from A. Warren Tooley (Tooley) regarding a contract entered into with Stacy N. Stanley (Stanley), t/a Colonial Paving Contractors.

On February 5, 2003, Tooley entered into a contract with Stanley, in the amount of \$4,100.00, to install an asphalt driveway at 2323 Mary Goodwyn Road, Powhatan, Virginia.

On August 21, 2003, a review of the licensing records of the Board for Contractors revealed Stanley was issued Class C Contractor's license number 2705065559 on October 25, 2001, as a sole proprietorship. The records further revealed Christian R. Stanley was the qualified individual of license number 2705065559.

### **Summation of Facts**

1. The contract used by Stanley in the transaction failed to contain the minimum provisions required by the Board's 2003 Regulation 18 VAC 50-22-260(B)(9), subsection (h) class of license, and classification or specialty services.
2. The contract specified "Any bad or broken areas will be patched free of charge for one year."
3. On February 5, 2003, Stanley completed the driveway. About two or three weeks later, Tooley noticed grass penetration through the driveway, a sinkhole at the entrance, and cracks on the sides. Tooley attempted to contact Stanley, but the phone number was not in service.
4. As of September 9, 2003, Stanley failed to make repairs to the sinkhole and cracks in Tooley's driveway.
5. On September 4, 2003, Investigator E. Nathan Matthews, the Board's Agent, made a written request, via certified mail and first class mail, to Stanley at the address of record of 6936 Holly Bark Drive, Midlothian, Virginia 23112, requesting a written response and supporting documentation to the complaint filed with the Board. On September 12, 2003, the certified letter was returned to the Board's agent by the United States Postal Service (USPS) and was marked "moved, left no address." On September 12, 2003, the first class mail letter was returned to the Board's agent by the USPS and was marked "moved left no address unable to forward."
6. On September 29, 2003, a review of the licensing records of the Board for Contractors revealed the license address of record for Stanley was 6936 Holly Bark Dr, Midlothian, Virginia 23112. The records further revealed there was no change of address reported to the Board. Stanley failed to notify the Board, in writing, within thirty (30) days of a change of address.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(9) (Effective January 1, 2003)

Stanley's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(30) (Effective January 1, 2003)

Stanley's failure to honor the terms and conditions of a warranty by failing to make repairs to the sinkhole and cracks in Tooley's driveway is a violation of Board Regulation 18 VAC 50-22-260(B)(30). Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 3: 18 VAC 50-22-230(B) (Effective January 1, 2003)

Stanley's failure to notify the Board, in writing, within thirty (30) days of a change of address is a violation of Board Regulation 18 VAC 50-22-230(B). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

By:

\_\_\_\_\_

Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 065559 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

**BOARD FOR CONTRACTORS**

**RE: STACY N. STANLEY  
T/A COLONIAL PAVING CONTRACTORS  
LICENSE NUMBER 2705 065559**

**FILE NUMBER: 2004-00734**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Stacy N. Stanley, t/a Colonial Paving Contractors (Stanley) on October 10, 2003. The following individuals participated at the conference: Lorenzo Dyer, Complainant; Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member. Neither Stanley, nor anyone on her behalf, appeared at the IFF.

**Background**

On August 7, 2003, the Enforcement Division of the Virginia Department of Professional and Occupational Regulation received a written complaint from Lorenzo E. Dyer (L. Dyer) regarding a contract entered into with Stacy N. Stanley (Stanley), t/a Colonial Paving Contractors.

On September 20, 2002, Rhonda Dyer (R. Dyer), L. Dyer's wife, entered into a contract with Stanley, in the amount of \$850.00, to regrade and pave an asphalt driveway at 11736 Explorer Terrace, Midlothian, Virginia.

On August 9, 2003, a review of the licensing records of the Board for Contractors revealed Stanley was issued Class C Contractor's license number 2705065559 on October 25, 2001, as a sole proprietorship. The records further revealed Christian R. Stanley was the qualified individual of license number 2705065559.

**Summation of Facts**

1. The contract specified "Any bad or broken areas will be patched free of charge for one year."
2. On September 20, 2002, Stanley completed the driveway. Over the past year, L. Dyer discovered several low places in the driveway that developed cracks. Between June 2003

and September 2003, L. Dyer tried to contact Stanley; however, the phone number was disconnected.

3. As of September 11, 2003, Stanley failed to repair the cracks and low spots in the driveway.

4. On August 18, 2003, Investigator E. Nathan Matthews, the Board's Agent, made a written request, via certified mail and first class mail, to Stanley at the address of record of 6936 Holly Bark Drive, Midlothian, Virginia 23112, requesting a written response and supporting documentation to the complaint filed with the Board. On August 27, 2003, the certified letter was returned by the United States Postal Service (USPS) and was marked "moved, left no address." On August 28, 2003, the first class mail letter was returned by the USPS and was marked "moved left no address unable to forward."

5. On September 29, 2003, a review of the licensing records of the Board for Contractors revealed the license address of record for Stanley was 6936 Holly Bark Dr, Midlothian, Virginia 23112. The records further revealed that there was no change of address reported to the Board. Stanley failed to notify the Board, in writing, within thirty (30) days of a change of address.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(30) (Effective September 1, 2001)

Stanley's failure to honor the terms and conditions of a warranty by failing to repair the cracks and low spots in the driveway is a violation of Board Regulation 18 VAC 50-22-260(B)(30). Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 2: 18 VAC 50-22-230(B) (Effective January 1, 2003)

Stanley's failure to notify the Board, in writing, within thirty (30) days of a change of address is a violation of Board Regulation 18 VAC 50-22-230(B). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

By:

\_\_\_\_\_  
Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

**FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 065559 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

**BOARD FOR CONTRACTORS**

**RE: STACY N. STANLEY**

**T/A COLONIAL PAVING CONTRACTORS  
LICENSE NUMBER 2705 065559**

**FILE NUMBER: 2004-01200**

### **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Stacy N. Stanley, t/a Colonial Paving Contractors (Stanley) on October 29, 2003. The following individuals participated at the conference: Stanley R. Elliott, Complainant; Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member. Neither Stanley, nor anyone on her behalf, appeared at the IFF.

### **Background**

On September 3, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Stanley R. Elliott (Elliott) regarding a contract entered into with Stacy N. Stanley (Stanley), t/a Colonial Paving Contractors.

In September 2002 or October 2002, Elliott received a written contract from Stanley, in the amount of \$3,400.00, to regrade and pave an asphalt driveway at 3782 Donavon Mill Court, Powhatan, Virginia 23139. The contract indicated "License # 2705 065559."

In mid-October 2002, Stanley commenced work. Upon substantial completion of the work by Stanley, Elliott paid Stanley \$3,400.00 by check.

On September 16, 2003, a review of the licensing records of the Board for Contractors revealed Stanley was issued Class C Contractor's license number 2705065559 on October 25, 2001.

### **Summation of Facts**

1. The contract was not signed by either Elliott or Stanley. Stanley failed to fully execute the written contract prior to the commencement of work or acceptance of payments.
2. The contract used by Stanley in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when the work is to begin and the estimated completion date and (h) contractor's class of license, and classification or specialty services.
3. The terms and conditions of the contract specified "Will Resurface & Seal 9/03."
4. On the last day of work, Christian Stanley told Elliott that a small section of the driveway needed to be recompacted and that the work would be finished after the completion of a neighbor's driveway.
5. Over the past year, Elliott noticed the driveway began to crumble and deteriorate in several spots. Elliott tried to contact Stanley by telephone. Stanley failed to respond to Elliott's telephone calls.
6. As of October 3, 2003, Stanley failed to return to perform any recompaction, resurfacing or sealing on the driveway.
7. As of October 3, 2003, Stanley failed to refund money received for work not performed or performed in part.
8. The terms and conditions of the contract specified "Any bad or broken areas will be patched free of charge for one year."
9. As of October 3, 2003, Stanley failed to make any repairs under the warranty.
10. On October 3, 2003, Investigator E. Nathan Matthews, the Board's Agent, made a written request to Stanley at the address of record of 6936 Holly Bark Drive, Midlothian, Virginia 23112, requesting a written response and supporting documentation to the complaint filed with the Board. On October 15, 2003, the letter was returned to the Board's agent by the United States Postal Service (USPS) and was marked "Moved Left No Address, Unable To Forward."
11. On October 21, 2003, a review of the licensing records of the Board for Contractors revealed the license address of record for Stanley was 6936 Holly Bark Drive, Midlothian, Virginia 23112. The records further revealed that there were no changes of address reported to the Board.

### **Conclusion and Recommendation**



Count 1: 18 VAC 50-22-260(B)(8) (September 1, 2001)

Stanley's failure to fully execute the written contract prior to the commencement of work or acceptance of payments is a violation of Board Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Stanley's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Stanley's failure to complete work contracted to perform is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 4: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Stanley's failure to refund money received for work not performed or performed only in part is a violation of Board Regulation 18 VAC 50-22-260(B)(16). Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 5: 18 VAC 50-22-260(B)(30) (Effective January 1, 2003)

Stanley's failure to make any repairs under the warranty is a violation of Board Regulation 18 VAC 50-22-260(B)(30). Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 6: 18 VAC 50-22-230(B) (Effective January 1, 2003)

Stanley's to notify the Board, in writing, within thirty (30) days of a change of address is a violation of Board Regulation 18 VAC 50-22-230(B). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

By:

\_\_\_\_\_

Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

**FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 065559 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
BOARD FOR CONTRACTORS**

**RE:        IN THE MATTER OF THE VIRGINIA CONTRACTOR TRANSACTION  
RECOVERY ACT CLAIM OF LUCI COCHRAN (CLAIMANT) AND        BRETT  
MOWE T/A PENINSULA REMODELERS (REGULANT)**

**LICENSE NUMBER 2705 039939**

**FILE NUMBER: 2003-01651**

### **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on December 9, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Luci Cochran and Brett Mowe, t/a Peninsula Remodelers (Peninsula Remodelers) on November 7, 2003. The following individuals participated at the conference: Luci Cochran, Claimant; Jennifer Kazzie, Staff Member; and Dorothy L. Wood, Presiding Board Member. Neither Mowe, nor anyone on his behalf, appeared at the IFF.

### **Background**

On **February 15, 2002** in the Circuit Court for the City of Newport News, James Cochran, et al., obtained a **Judgment** against Peninsula Remodelers, L.L.C., **in the amount of \$16,350.00, attorney fees of \$4,087.50, costs of \$240.00, and 9% interest.**

The **claim** in the amount of **\$10,000.00** was received by the Department of Professional and Occupational Regulation on **October 4, 2002.**

### **Summation of Facts**

1. **Code of Virginia Section 54.1-1120(A)** requires the claimant to obtain a final judgment in a court of competent jurisdiction in the Commonwealth of Virginia against any individual or entity which involves improper or dishonest conduct.

The Order recites "the Court finds that Peninsula Remodelers, L.L.C. did engage in the improper conduct alleged by the Cochrans in their Motion for Judgment".

2. **Code of Virginia Section 54.1-1120(A)** also requires the transaction occurring during a period when such individual or entity was a regulant and in connection with a transaction involving contracting.

The claimants **did** contract with the regulant.

The Board issued Class B License Number 2705039939 to Brett Mowe t/a Peninsula Remodelers, on **June 12, 1997**. The license was permanently revoked on September 20, 2001. The claimant entered into a written contract with Peninsula Remodelers, L.L.C. on **January 22, 2001** for the construction of a garage at the claimant's residence. (Note: The address listed on the contract is the same address listed on the Board for Contractors licensing record for Brett Mowe t/a Peninsula Remodelers.)

**3. Code of Virginia Section 54.1-1120(A)(1)** provides whenever action is instituted against a regulant by any person, such person shall serve a copy of the process upon the Board.

The Contractors Board was served prior to the claim being filed.

**4. Code of Virginia Section 54.1-1120(A)(2)** states a copy of any pleading or document filed subsequent to the initial service process in the action against a regulant shall be provided to the Board.

The Board did receive pleadings and/or documents prior to the claim being filed.

**5. Code of Virginia Section 54.1-1120(A)(3)** requires a verified claim to be filed no later than twelve months after the judgment becomes final.

A Judgment was entered on **February 15, 2002**. The claim was received on **October 4, 2002**.

**6. Code of Virginia Section 54.1-1120(A)(4)** states the claimant shall be an individual whose contract with the regulant involved contracting for the claimant's residence.

The claimant entered into a written contract with Peninsula Remodelers, L.L.C. for the construction of a garage at the claimant's residence.

**7. Code of Virginia Section 54.1-1120(A)(5)** prohibits recovery when the claimant is an employee of such judgment debtor, vendor of such judgment debtor, another licensee, the spouse or child of such judgment debtor nor the employee of such spouse or child, or any financial or lending institution nor anyone whose business involves the construction or development of real property.

On Question Number 6 of the Claim Form, the claimant was asked: Are you a vendor of the regulant (contractor)? Are you an employee, spouse or child of the regulant (contractor) or an employee of such spouse or child? Do you hold, or have you ever held, a Virginia Class A or Class B State Contractor's license or registration? Do you operate as a financial or lending institution? Does your business involve the construction or development of real property? Claimant answered "No."

**8. Code of Virginia Section 54.1-1120(A)(6)** states no directive from the fund shall be entered until the claimant has filed with the Directors Office a verified claim containing the following statements: (a) that the claimant has conducted debtor's interrogatories to determine whether the judgment debtor has any assets which may be sold or applied in satisfaction of the judgment; (b) a description of the assets disclosed by such interrogatories; (c) that all legally available actions have been taken for the sale, or application of the disclosed assets and the amount realized therefrom; and (d) the balance due the claimant after the sale or application of such assets.

Debtor's interrogatories were conducted. No assets were revealed.

**9. Code of Virginia Section 54.1-1120(A)(7)** states a claimant shall not be denied recovery from the Fund due to the fact the order for the judgment filed with the verified claim does not contain a specific finding of "improper and dishonest conduct." Any language in the order that supports the conclusion that the court found that the conduct of the regulant involved improper or dishonest conduct may be used by the Board to determine eligibility for recovery from the Fund.

The Order recites "the Court finds that Peninsula Remodelers, L.L.C. did engage in the improper conduct alleged by the Cochrans in their Motion for Judgment".

**10. Code of Virginia Section 54.1-1120(B)** requires if the regulant has filed bankruptcy, the claimant shall file a claim with the proper bankruptcy court. If no distribution is made, the claimant may then file a claim with the Board.

On Question Number 5 of the Claim Form, the claimant was asked if, to their knowledge, the regulant had filed for bankruptcy? In response to this question, the claimant responded, "No."

**11. Code of Virginia Section 54.1-1123(C)** excludes from the amount of any unpaid judgment any sums representing interest, or punitive or exemplary damages.

The Claim Form does not include interest or damages.

### **Conclusion and Recommendation**

Based upon the information presented at the Recovery Fund IFF and the record, it is recommended that the claim be approved for payment in the amount of \$10,000.00.

By:

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Dorothy L. Wood  
Presiding IFF Board Member  
Board for Contractors

Date: \_\_\_\_\_

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

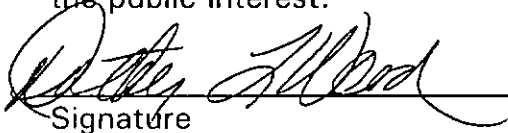
1. Name: Dorothy L. Wood
2. Title: Member, Board for Contractors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Informal Fact-Finding Conference on December 9, 2003
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_  
\_\_\_\_\_

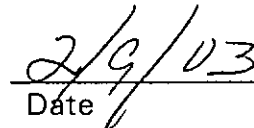
6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

\_\_\_\_\_

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

  
Signature

  
Date